

MEMORANDUM TO: All Members of the Metropolitan Council

FROM: Jon Cooper, Director
Metropolitan Council Office

DATE: September 1, 2009

**RE: Analysis for Ordinances Amending
the Zoning Code Text**

ORDINANCE NOS. BL2009-499 & BL2009-510 – These two ordinances, commonly referred to as “the chicken bills”, amend the zoning code provisions pertaining to the keeping of animals on residential property. The zoning code currently allows “domestic animals/wildlife” as an accessory use in the residential zoning districts. The zoning code defines such animals as native and exotic animals and common domestic farm animals (specified as Class II and Class III animals under state law) “which are kept outdoors for any purpose other than agricultural business.” There is no specific definition as to what constitutes a common domestic farm animal. The conditions applicable to the keeping of domestic animals/wildlife in residential areas include the following:

1. The animals are only permitted as an accessory use in the RS80, RS40, RS30, RS20 and R80, R40, R30 and R20 residential zone districts with a minimum lot size of five acres.
2. The property containing the residence and farm animals/wildlife cannot be located within the urban services district.
3. All pens, runs, paddocks, pastures and other open outdoor areas must be fully enclosed by fencing. Barns, stables, stalls, and similar shelters cannot be within 250 feet of a residence.
4. All required permits must be obtained from the Tennessee wildlife resources agency and/or the department of health.

The zoning administrator has always interpreted these provisions to prohibit the keeping of chickens within the urban services district, and on lots within the general services district less than five acres in size. However, the health code provides that chickens may be kept as long as they do not create a nuisance. The board of zoning appeals recently overturned the zoning administrator's decision and allowed a property owner to keep her chickens since the chickens were essentially kept as pets (not farm animals) and there was no proof they were a nuisance.

Ordinance No. BL2009-499 (Burch & Gotto) amends the definitions section of the zoning code to add a new definition for “common domestic farm animals” that includes chickens, cows, donkeys, ducks, geese, goats, horses, mules, peafowl, pigs, and sheep. The ordinance also includes a definition for “exotic animals” that is based on the state law classification. These common domestic farm animals and exotic animals would be prohibited in the urban services district, and only allowed as an accessory use in the larger-lot residential zoning districts in the general services district on property having a minimum of five acres.

Ordinance No. BL2009-510 (Holleman & LaLonde) – This ordinance is an alternative to Ordinance No. BL2009-499 that would allow chickens in residential zoning districts on a limited basis. Like BL2009-499, this ordinance adds definitions for domestic and exotic animals. Domestic animals would include farm animals that may be kept for commercial sale on a farm or for family food production, education, or recreation. These would include cats, cattle, chickens, dogs, ducks, geese, goats, guinea pigs, hamsters, horses, mules, oxen, pheasants, pigeons, sheep, and swine. Some of these domestic animals may also be considered “household pets”, which the ordinance defines as those animals raised for human companionship, such as birds, dogs, cats, guinea pigs, hamsters, mice, and rabbits.

This ordinance also includes a new accessory use in the residential districts for poultry kept for non-commercial purposes. The ordinance considers poultry to be a domestic animal, and defines poultry as chickens, ducks, turkeys, quail, or pheasants kept for the purpose of collecting eggs or feathers, but not to be used for meat. The number of chickens that would be allowed on residential property is based upon the lot size, as follows:

Max. # Poultry	Parcel Area (sq ft)	Acreage
2	3,750 to 5,009	0.09 to .11
4	5,010 to 10,236	.12 to .23
6	10,237 to 87,119	.24 to 1.99
none	87,120 or more	2.0 or more

In addition, the following conditions will apply to chickens kept in the residential zoning districts:

- o No roosters would be allowed.
- o No poultry would be permitted in the front yard.
- o The poultry must be kept in a predator-proof enclosure that is at least 25 feet away from any residence and 10 feet from the property line.
- o No slaughtering would be permitted on the property.
- o No poultry breeding would be permitted on the property.

There is a substitute for this ordinance that attempts to merge these two ordinances into one consensus bill. The substitute would only allow chickens on single-family lots, and would set a minimum lot size for keeping chickens.